IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5561 OF 2005

Altaf Shahbuddin Dadani ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. A.P. Mundargi, Senior Counsel i/by Subhash Kanse & Parvez Memon for the Applicant.
Shri. R.Y. Mirza, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 12, 2005.

P.C.:

1. Heard the learned Senior Counsel appearing for the Applicant and the learned A.P.P. for the State. The Applicant is sought to be arrested in connection with the offence registered under section 420 of the Indian Penal Code at the instance of a Detective Agency which is claiming to be authorised representative of Paint Manufacturing Company. The allegation against the Applicant is that he is involved in the sale of duplicate paint of the Company Asian Paints.

2. The learned Senior Counsel appearing for the Applicant submitted that the case of the prosecution is that the Applicant is also known as Rameshbhai @ Gabru. He invited my attention to the affidavit filed by the first informant who is the Director of the Detective Agency stating therein that the Applicant is known as Altaf Dadani and not by any other nickname in the market. The affidavit indicates that the first

informant has no grievance against the Applicant. There are other affidavits annexed to the Application which are relied upon by the learned Counsel for the Applicant in support of the case of the Applicant. He submitted that the police cannot rely upon the statement of the co-accused for the purposes of arresting the Applicant who is known in the market only by one name which is mentioned in the Application.

3. The learned A.P.P. has invited my attention to the statements which are recorded during the course of investigation and the correct address, name and cell phone number of the Applicant obtained from a Bank during the course of investigation. He submitted that the Applicant has played active role in selling the duplicate paint.

4. The learned Senior Counsel for the Applicant in reply submitted that the statements which are relied upon are recorded during the pendency of the Application for Anticipatory Bail and hence, on the basis of such statements the Applicant cannot be arrested.

5. I have considered the statements. The affidavit of the first informant has no relevance at this stage as the first informant is not the affected

party as he claims to be a Director of Detective Agency which is duly authorised by Asian Paints to lodge the complaint. The other affidavits are of persons who have not been identified by anybody before the Notary. Moreover, there is material collected in the investigation against the Applicant. Though certain statements have been recorded after filing of the Application, there are witnesses who have stated that the Applicant is known as Rameshbhai @ Gabru.

6. Considering the material which is collected during the course of investigation, it cannot be said that the custodial interrogation of the Applicant is not required. No case is made out for grant of Anticipatory Bail. Application is rejected.

7. It is obvious that as and when Regular Bail Application is filed by the Applicant, it will be heard on the merits without being influenced by the observations made in this order.

JUDGE